

Moore  
09/829,643

REMARKS

The undersigned requests a personal interview with the Examiner in charge of this application and including a Supervisory Patent Examiner to discuss the issues raised below.

Claims 24-33 were rejected as being indefinite because of informalities in parent claim 24. They have been corrected.

Claims 24 and 25 were rejected as being unpatentable over Randall in view of Franklin and DeLanzo.

Randall does teach a ball and a bat of the types used in the present invention. Contrary to what the Examiner states, this reference does not teach "a batting practice apparatus and method of use" (first paragraph of the patent). The reference says that his invention relates to "projectiles which may be used in games similar to baseball, or in other throwing and batting games". The reference also states "A number of pitching techniques can be developed" (col. 1, lines 60-61). The undersigned has been unable to find any suggestion of using such a ball and bat for batting practice, much less than in a formal batting practice program as claimed in this application.

Franklin does show in the instructional booklet ways of holding a ball to throw different kinds of pitches. It is quite a leap to conclude that the use of the techniques described in the booklet would be useful with the kind of ball disclosed in Randall.

DeLanzo has a mechanical wearing device for a batter to assist in maintaining eye contact with a baseball. The Examiner refers to comments in the Description of the Related Art for a suggestion that somehow there is a suggestion that Randall can be used for training a batter. The undersigned has a problem in fathoming this idea.

The basic truth is that all of the structure (ie, the semi-ball and the thin bat) is old, but none of the art can suggest using such a ball for training a batter in the manner claimed in this application. Yes, there are techniques for teaching a pitcher how to throw certain pitches, and yes there are devices (ie, DeLanzo) to teach batters how to hit the ball properly. But without the teaching which comes from this application, even putting together all of the teachings of the above references will not produce the invention as claimed in this application.

Claim 24 has been amended to recite the thickness of the bat, as described in page 35 of

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the specification as well as to limit the claimed subject matter to a method of improving the hitting proficiency of a baseball player.

A new claim 34 has been added calling for a method of playing a game of baseball and includes the step of playing according to the rules of baseball. Randall's statement the "projectiles [which] may be used in games similar to baseball, or in other throwing and batting games" (emphasis added) is believed to teach away from using such a ball and bat to play baseball according to its rules.

The Examiner is requested to call the undersigned or Mr. Kroll if any changes are required to obtain allowance of this application.

A favourable action is solicited.

Respectfully submitted,

  
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CERTIFICATE OF MAILING

I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to the COMMISSIONER FOR PATENTS, PO BOX 1450, ALEXANDRIA, VA 22313-1450 on June 23, 2006.

  
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Leonard Belkin